**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**Civil Application No.877 OF 2007.**
**in**
**Appeal From Order No.857 of 2006.**

M/s. Pyramid Developers
& Another ..Appellants

versus

M/s. Dolphin Developers &
Builders & Others ..Respondents

Mr.Deepak Chitnis i/b. Deepak Chitnis Chipkarikar & Co. for the Applicant

Ms.G.P.Mulekar, AGP for Respondent Nos.10, 11, 12 and 14.

**Coram : S.R.Sathe, J.**
**Dated : 9th August, 2007**

P.C.

1. Heard learned advocate for the applicant. Also heard Mrs. Mulekar, learned advocate appearing on behalf of respondent Nos.10, 11, 12 and 14 for restoration of the A.O. and C.A. Learned advocate Mr.Chitnis, has no objection.

2. So far as the other respondents are concerned, it appears from the Bailiff's report that the Bailiff made an attempt to serve the respondents at the given address. However, as they were not found, inspite of due diligence on the part of the Bailiff, he pasted the summons of the application.

So, there is proper service as contempalted under Order V Rule 17 of CPC. Inspite of the said service, the respondents have not appeared. Under the circumstances, it has to be held that there was in fact proper compliance of the conditional order. However, it seems that the office has treated that there was no compliance and the matter i.e. A.O. is dismissed.

3. Be that as it may. It is hereby directed that the A.O. be restored to its original number. The learned advocate for the applicant/appellant fairly submits that he will issue fresh notice to all the respondents, so that the main matter i.e. the A.O. and any interim application therein will be heard on merits. Hence, the applicant/appellant to take steps for service of notice of the A.O. on respondents. S.O. four weeks.

4. This Civil Application is disposed of accordingly.

**(S.R.Sathe, J.)**